



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT
SINCE 1955

OFFICE OF DISTRICT COUNSEL

Phone: (415) 749-5169

Fax: (415) 749-5103

June 16, 2009

Mr. Rob Simpson
27126 Grandview Avenue
Hayward, CA 94542

Re: Public Records Act Request No. 09-01-31

Dear Mr. Simpson:

The Bay Area Air Quality Management District ("District") has completed its review and compilation of the records you requested in your Public Records Act request regarding documentation related to the Russell City Energy Center (Request No. 09-01-31, a copy of which is attached). The documents are now ready for your review.

The bulk of the documents are located in the District's technical library on the 4th floor of District headquarters. You may review these files at your convenience at any time during District business hours. Please note that the library is only open to the public when a District staff person is present. The District will make sure to have a staff person available to give you access to the library and show you the records when you want to look at them. You may find it helpful to call or email before you come so that we can make sure that the District has a staff person ready to do so when you arrive. Please contact the District's Public Records staff in this regard, at (415) 749-4761, publicrecords@baaqmd.gov. In addition, your request covered certain documents in the files of the District's Hearing Board, and the Clerk of the Hearing Board does not allow Hearing Board files to be removed from their location on the 7th Floor of District Headquarters. To review these files, please contact the Clerk, Ms. Lisa Harper, at the District, (415) 759-5073, lharp@baaqmd.gov.

Please note that per my email correspondence with you, the District has not endeavored to print out all of the responsive documents regarding the Russell City project that are publicly available on the District's website. If you cannot access these documents electronically from the District's website, we would be more than happy to print them out to you can have hard copies to review. Please let me know if you would like to have paper copies available.

Please also note that the District is withholding certain records that are exempt from disclosure under the Public Records Act. Pursuant to Government Code section 6254(k), the District is withholding privileged documents exempt from disclosure under the California Evidence Code. Pursuant to Government Code sections 6254(a) and 6255, the District is withholding preliminary drafts, notes, and memoranda not retained in the

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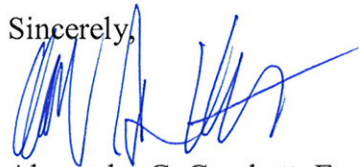
ordinary course of business, as well as other documents that reflect the agency's deliberative process regarding its proposals to issue permits for the proposed Russell City Energy Center and to respond to issues raised regarding those issues. The public interest in not disclosing the documents clearly outweighs the public interest in disclosing them, because it allows for the District as a public agency to have full and frank internal discussions about various alternatives and approaches to an issue that has generated a significant deal of controversy. Public agency staff need to be able to have the freedom to suggest, discuss, and decide on various approaches and alternatives to such issues without worry that their ideas and opinions will be made public and bring them up for public criticism. Public agency decision-making would be severely hindered if all such documents evidencing the agency's deliberative process were required to be disclosed to the public. Where internal documents may be relevant to the agency's decisionmaking process regarding the proposed Russell City Energy Center but do not contain sensitive information about the Agency's deliberations, the District is making those documents available for review.

Finally, given the large volume of documentation involved in this request, you may find it more convenient to have copies made so that you can take copies outside of District headquarters for your own use and review elsewhere. We would be happy to arrange a copy service for you (at your expense). Please contact the public records staff if you would like us to arrange for copies for you.

Please let me know if you have any questions regarding this matter. I am copying Martin Homec, Esq., on this message as he was identified to us as your attorney on these matters (I am copying him by email only, as I do not have a mailing address for him). You may have Mr. Homec contact me directly if you prefer.

Thank you for your cooperation in the District's response to your request.

Sincerely,



Alexander G. Crockett, Esq.
Assistant Counsel

cc: Brian C. Bunger, Esq., BAAQMD
Ms. Rochelle Henderson, BAAQMD
Ms. Lisa Harper, BAAQMD
Ms. Mary Keba, BAAQMD
Martin Homec, Esq.



**BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT**

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

939 ELLIS STREET

SAN FRANCISCO, CA. 94109

ATTENTION: ADMINISTRATIVE SERVICES DIVISION

e-mail request to: **publicrecords@baaqmd.gov**

Office Use Only

P.R.R. NUMBER

09-01-31

Direct Dial: (415) 749-4761

FAX: (415) 749-5111

PUBLIC RECORDS REQUEST FORM

ATTENTION REQUESTOR: To expedite your request for District records, please fill out this form completely. Specifically identify the type of records you are requesting from the list below. **NOTE:** There is a limit of one facility or one site address per request form.

REQUESTOR INFORMATION

NAME: Rob Simpson			DATE: 1/15/00
COMPANY:			
MAILING ADDRESS: 27126 Grandview Avenue			
CITY: Hayward	STATE: CA	ZIP CODE: 94542	PHONE NUMBER:

REQUESTED FACILITY INFORMATION

FACILITY NAME: Russell City Energy Center (RCEC)		
FACILITY ADDRESS:		
CITY:	STATE:	ZIP CODE:
TIME PERIOD OF DOCUMENTS REQUESTED:	From:	To:

REQUESTED RECORDS (Check *no more than three applicable items*)

Complaint Information <input type="checkbox"/> Complaint Printout <input type="checkbox"/> Specific Complaint #	Notice Of Violation Information <input type="checkbox"/> NOV Printout <input type="checkbox"/> Specific NOV # <input type="checkbox"/> AB2588 Inventory <input type="checkbox"/> Source Test Reports <input type="checkbox"/> Lab Report # <input type="checkbox"/> Review Permit Files * <input type="checkbox"/> Review Enforcement Files ** <input type="checkbox"/> Review Rule Development Files ** <input type="checkbox"/> Asbestos Notifications	OTHER: *** "all public documents relating to RCEC from 2008 and this year"
Episode Information <input type="checkbox"/> Episode Printout <input type="checkbox"/> Specific Episode #		
Permit Application Information <input type="checkbox"/> Permit Application Printout <input type="checkbox"/> Specific Application # <input type="checkbox"/> Permit Conditions		

* Subject to facility review (i.e., trade secrets).

** You will be contacted to schedule an appointment date to review records.

*** If what you are seeking is not on this Form, you may attach a letter with additional information on the request.

Cost: **Copies: \$.10 per page; Diskette \$5.00; CD \$10.00; Audiotape \$5.00; Microfiche sheet \$8.00.**

Note: After a preliminary estimate, **advance payment may be required.**

I hereby agree to reimburse the BAAQMD for the direct cost of duplicating the information requested in accordance with Gov't Code Section 6253(b).

OFFICE USE ONLY:

- Enclosed are the records you requested.
- We are unable to provide the records you requested.
 - A search was made but no records were found.
 - We are unable to find the record you requested because the request did not include sufficient information to find it.

Out of District's Jurisdiction.

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